

Exhibit 26

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

BLACK LOVE RESISTS IN THE RUST, et al.,
individually and on behalf of a class of
all others similarly situated,

Plaintiffs,

vs.

1:18-cv-00719-CCR

CITY OF BUFFALO, N.Y., et al.,

Defendants.

ORAL EXAMINATION OF OCTAVIO VILLEGAS

APPEARING REMOTELY FROM

BUFFALO, NEW YORK

Thursday, June 8, 2023

10:07 a.m. - 4:16 p.m.

pursuant to notice

REPORTED BY:

Luanne K. Howe

APPEARING REMOTELY FROM CUYAHOGA COUNTY, OHIO

DEPAOLO CROSBY REPORTING SERVICES, INC.
716-853-5544

R E M O T E A P P E A R A N C E S

APPEARING FOR THE PLAINTIFFS:

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1 I had to do that was explaining the executive powers
2 and the separation of powers and why the mayor's
3 office, the way the legislation had set it up, could
4 allow us to adopt things that come from the executive
5 office. But other than that, I think
6 constitutionality-wise, I don't recall.

7 Q Could you just explain what you were just saying?
8 The way it was -- I think you referred to the way
9 BTVA was set up and the executive department. Could
10 you just expand on that?

11 A Absolutely. So the legislation created the Buffalo
12 Traffic Violation Agency. The Buffalo Traffic
13 Violation Agency is one of four that exist in the
14 State of New York. The older ones are Suffolk and
15 Nassau County. The way the legislation sets them up
16 is that they're under the direct control of the
17 comptroller.

18 When Buffalo was created, the legislation carved
19 it out to say that the agency runs under the direct
20 control of the mayor's office. Similarly Rochester,
21 which was created after Buffalo, has the same
22 carve-out that is under the control of the mayor.

23 So let's say if there's a directive from the

1 violations, so if it's a felony or a misdemeanor
2 related, anything that stems out of an arrest, it's
3 still under the jurisdiction of Buffalo City Court.

4 We deal with all the nonmoving violations that
5 are within the City of Buffalo that are issued by law
6 enforcement agencies because we do have a few that
7 issue tickets, so it's not just Buffalo PD.

8 Q So do you have an understanding of why the BTVA was
9 created?

10 A I feel that I do. My understanding of it was
11 majority leader, Crystal Peoples-Stokes, had
12 advocated to have a Traffic Violation Agency here in
13 Buffalo, a system that could allow those that receive
14 tickets, not just residents but those that come
15 through the City of Buffalo, to have an opportunity
16 to plead out or have the same privileges such as town
17 and village courts around the City of Buffalo and
18 across the State of New York had the ability to do.

19 And Buffalo didn't have that at the time. When
20 the administrative adjudication was here, my
21 understanding was it was more DMV. The burdens of
22 proof were not the same as in a criminal court. And
23 people were not given an opportunity to plead

1 anything.

2 And so Crystal Peoples-Stokes advocated for an
3 agency in Buffalo because we know that in the state,
4 they already existed. And with the help of not just
5 getting it through the assembly, but then Tim
6 Kennedy, who I believe is the head of the
7 Transportation Committee, then pushed also to have
8 this created.

9 So through Albany or I would say the
10 legislators, they voted and passed the creation of
11 the Buffalo Traffic Violation Agency. And that was
12 what established us, and that gave us the opportunity
13 that the neighboring village and town courts and
14 other areas across the state who had the ability to
15 plead down tickets or give motorists alternatives, we
16 now had the ability to do that.

17 Q BTVA also allowed the City of Buffalo to keep a
18 higher percentage of revenue from traffic fines and
19 fees, right?

20 MR. SAHASRABUDHE: Form.

21 A Similar to like all the towns and villages and
22 everywhere else across the state, they keep their
23 revenue that they have locally. So Buffalo was

1 to be better and allowed judges to be heard better
2 and the translations that were done on the other side
3 to run more smoothly.

4 So little things that we do. We do try to also
5 get the opinions of our judges. We include them as
6 part of our agency. And so what we do, there are
7 things that we do run by them of course.

8 Q Who sets the court schedule, traffic court schedule?

9 A That would be done by the court clerk.

10 Q And the court clerk works for BTVA?

11 MR. SAHASRABUDHE: Form.

12 A Yes. She is employed by the Buffalo Traffic
13 Violations Agency.

14 Q Okay. I'd like to just walk through sort of the
15 process for how traffic tickets are prosecuted in the
16 City of Buffalo. So let's say I'm driving through
17 Buffalo. A police officer pulls me over for speeding
18 and writes me ticket. What's sort of the process
19 that goes from there?

20 MR. SAHASRABUDHE: Objection to form.

21 A Assuming that a traffic ticket is issued and it was
22 within the limits of the City of Buffalo, it would
23 have the address of the agency and a date and time of

1 when you could answer by mail or in person.

2 So if you received a traffic ticket, you have
3 the ability -- say, for example, you want to plead by
4 mail, just check either guilty or not guilty and mail
5 that ticket to the address, or you can come in
6 person.

7 You could appear on the date and time that it
8 says on the traffic ticket at Room 115 in city hall.
9 And once we receive the ticket as part of the agency,
10 we screen it.

11 What I mean by that is if there's a New York
12 State registered vehicle or license in the State of
13 New York, our agency has access to the Department of
14 Motor Vehicles. So we make sure that we review
15 driving records to see if you are eligible for plea
16 offers.

17 And those that are eligible, we inform them of
18 that information and try to allow them -- give all
19 the information. If they want to either plead the
20 matter out or if they want the opportunity to be
21 heard in court, that would be just the process.

22 You get your ticket. You answer your ticket.
23 But by answering, you let us know if you're guilty or

1 not guilty. If you're eligible for a plea, we'll let
2 you know, so that way you can make an informed
3 decision. And then we go from there.

4 If people want to take a plea, then the agency
5 will process it administratively. If they want to
6 schedule themselves for a hearing, then it will be
7 noted so that way the court clerk can put it on the
8 calendar, so that way a judicial hearing officer can
9 hear the matter.

10 Q So the ticket gives you the option to just plea by
11 mail; is that right?

12 A Yes. If you look at the bottom of the ticket, I
13 think the way the state has it is like misdemeanors
14 and felonies must appear in front of a judge. But
15 for traffic violations, there's a section down there.
16 I don't have a ticket in front of me so I couldn't,
17 you know, put it up and show you. But if you pulled
18 up a ticket, at the bottom where our address is, it
19 will say please plea by mail or in person.

20 Q Okay. And so if I plea by mail, I have to pay the
21 fine and that's really the end of the matter, right?

22 A Not necessarily.

23 Q Okay. Why do you say "not necessarily"?

1 A I see that.

2 Q So this is the charges related to tinted windows; is
3 that right?

4 A Windows that nontransparent, yes, referred to as
5 tints.

6 Q And it says under the "Plea Offer" column, "Charge
7 one fee of 95 dollars for multiple tints per stop.
8 Dispose all other charges as covered by." Do you see
9 that?

10 A Yes, sir.

11 Q Is that the current policy for tinted windows?

12 A That has been the policy since I came to Buffalo
13 traffic. I believe it existed before I arrived.

14 And just to kind of expand on that a little bit,
15 we have had motorists that receive not just tickets
16 for having their front windshield nontransparent but
17 their sides and their rear windows nontransparent.

18 If you have tints on the windows, it was the
19 executive director's position at the time one tint
20 should be for -- if your car is tinted, it's tinted.
21 Now, do we want to get technical about how many
22 windows were tinted? We can, but we'd rather just
23 consider one and the rest to be covered as part of a

1 plea offer.

2 Now, if people want to dispute the matter, it is
3 obviously their right to. And also if law
4 enforcement does issue more than one, if they have
5 the probable cause to, those sections are in the
6 Vehicle and Traffic Law for a reason. And if we
7 receive multiple tickets, again in fairness to the
8 public, we want to give them an opportunity to plead
9 them out if they do not remove them, if they do not
10 want to remove them.

11 There is also no penalty if you have them
12 removed and show us proof of removal. But there are
13 people who are adamant that they don't want to do
14 that. And if they choose to take the plea offer,
15 we'll plead it out to one.

16 And again our plea policy by the judges'
17 approved fine schedule would be \$95 in the event that
18 you receive multiple tint tickets. In the event
19 people do not want to accept that plea offer, our job
20 is to put all the tickets that the officer issued for
21 a hearing and again allow the officer to testify and
22 articulate why they issued a ticket for each of the
23 windows that they observed at the time of the stop.

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1 STATE OF OHIO)

2 COUNTY OF CUYAHOGA)

3 I, Luanne K. Howe, Notary Public, in and for the
4 County of Cuyahoga, State of Ohio, do hereby certify:

5 That the witness whose testimony appears
6 hereinbefore was, before the commencement of his testimony,
7 duly sworn to testify the truth, the whole truth and nothing
8 but the truth; that said testimony was taken remotely
9 pursuant to notice at the time and place as herein set
10 forth; that said testimony was taken down by me and
11 thereafter transcribed into typewriting, and I hereby
12 certify the foregoing transcript is a full, true and correct
13 transcription of my shorthand notes so taken.

14 I further certify that I am neither counsel for
15 nor related to any party to said action, nor in any way
16 interested in the outcome thereof.

17 IN WITNESS WHEREOF, I have hereunto subscribed my
18 name and affixed my seal this 21st day of June, 2023.

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Luanne K. Howe

Notary Public - State of Ohio

My commission expires 10-07-24

